

Q2 --23 (New) The data processing system of claim 22 wherein said programming includes a portfolio rebalancing based on a merger or acquisition of a company having stock in said underlying securities. --

**Proposed Drawing Change**

Please add "Prior Art" to Figure 1.

**REMARKS**

This Amendment is in response to the Office Action dated September 5, 2002. In the subject Office Action, the specification and Figure 1 were objected to on several formalities. In addition, several of the pending claims were rejected as indefinite pursuant to 35 U.S.C. §112, second paragraph. Finally, the claims of record have been rejected to on prior art grounds in view of U.S. Patent No. 5,987,435 to Weiss, et al. ("Weiss"), U.S. Patent No. 5,671,363 to Cristofich, et al. ("Cristofich"), and finally a Merrill Lynch article relating to HOLDRs®.

Applicants wish to express their gratitude to the Examiner for the courtesy extended during the course of a brief telephonic interview held in December. The purpose of the interview was to review the rejections of record and the prior art identified in the Office Action, with focus on the distinct features of present invention in contrast to the teachings of Weiss and Cristofich.

In response to the rejections and objections raised in the subject Office Action, applicants respectfully traverse. The claims provide a clear recitation of the present invention, and this invention is a significant departure from the prior art. Applicants have amended the claims to address several cosmetic issues without departing from the proper scope provided. In addition, please consider the discussion and points provided herein in further consideration of this invention and application for patent.

To begin with a brief overview, the present invention provides a novel investment vehicle and a uniquely programmed computer system to manage it. The investment vehicle is labeled a "Security Receipt" in the specification and this vehicle blends a spectrum of investment attributes that are particularly attractive to the financial community. An illustrative example of the Security Receipt product is delineated starting at page 9 (HOLDRs®) using an industry specific characteristic for grouping a collection of otherwise independent securities into an investment basket; in this example, Internet companies. The resulting Security Receipt has a pass-through capability that provides ownership – like rights to purchasers and traders of the vehicle.

The creation, exchange and redemption of the Security Receipts is accomplished on a selectively programmed data processing platform that tracks and implements critical aspects of Security Receipt transactions. These unique characteristics and transactional capabilities provide a novel investment opportunity to the financial markets that is not obtainable through traditional investments such as Mutual Funds, index shares and the like.

The foregoing discussion places the present invention on an entirely different foundation in comparison to the systems of either Weiss or Cristofich. Specifically, Weiss is directed to the use of proxy assets to create liquid markets for assets that are otherwise illiquid or difficult to trade. The specific example provided is real estate, and the proxy asset has a valuation tied to a geographic-based market index. For example, an investment in Boston-based proxy assets would track, in value, the Boston-based real estate index. As taught, an Up and Down Proxy Asset share must be created to maintain system balance, as there is no intrinsic value in the proxy asset *per se*.

Importantly, Weiss does not disclose Security Receipts as defined in the present invention and claimed. Proxy Assets of Weiss are not a pooled investment vehicle comprising a collection of underlying securities of selective characteristics. There is no beneficial interest conveyed by Proxy Assets which are entirely based on cash accounts and use valuation, via market index data. As discussed therein, the Proxy Assets are principally a risk management tool, directed at creating market liquidity of an asset class, where little existed before.

The other art based rejection relied on the "Merrill Lynch article" discussing HOLDRs®. A significant amount of press coverage has been generated by the HOLDR's® product. Applicants have submitted substantial information, via two separate IDS submissions, regarding, for example, the creation of a Telebras security in 1998 and the subsequent launching of Security Receipts based on an industry-based basket of underlying securities. During the interview with the Examiner, the question of the first trading date for the Telebras-based securities was raised. Applicants submitted significant documentation on this also. From these submissions, applicants have identified the attached Bloomberg report, identifying trading as starting on July 28, 1998. Applicants have been unable to locate any record indicating an earlier trading date. Industry-based Security Receipts were developed and launched after the Telebras security began trading, and after the critical date of the provisional application.

The final reference to Cristofich addresses company-based stock option plans that do not involve aspects having any meaningful correspondence to the present invention. Accordingly, applicants believe that the present invention is in condition for allowance and should issue. Issuance is respectfully solicited.

Enclosed herewith is a petition and fee for a two month extension of time within which to respond to the instant Office Action. Please charge any insufficiency in the fee to Deposit Account No. 08-2776.

Respectfully submitted,

Dated: February 5, 2003

I hereby certify that this correspondence is being deposited with the United States Postal Service on February 5, 2003 as First Class Mail in an envelope addressed to:

Commissioner of Patents and Trademarks Office,

Washington, D.C.



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### Marked Up Version of Claims

1. (Amended) A system for managing one or more Security Receipts, each said Security Receipt evidencing a beneficial interest in [one or more] underlying securities, the system comprising:
  - a Trustee holding the underlying securities;
  - a computer system with associated memory for storing data relating to the underlying securities and the Security Receipts;
  - means for generating Security Receipts having said beneficial interest, based on said underlying securities; and
  - means for (i) accepting a further deposit from a Depositor of underlying securities in exchange for one or more newly issued [Securities] Security Receipts, [and/or] or (ii) canceling a Security Receipt in exchange for transferring the underlying securities to an owner of said Security Receipt.
2. (Amended) The system of claim 1, wherein the underlying securities for [a particular] said Security Receipt have a common characteristic.
3. (Amended) The system of claim 1, comprising both means for accepting further deposits for a newly issued Security [Receipts] Receipt and for canceling a Security Receipt in exchange for corresponding [the] underlying securities.
4. (Amended) The system of claim 1, further comprising means for trading [said] Security [Securities] Receipts.
7. (Amended) A method for creating a tradable Security Receipt, wherein said Security Receipt is an investment instrument evidencing beneficial ownership in one or more securities, comprising:

providing a bundle of said [underlying] securities;  
transferring said bundle of securities to a Trustee;  
exchanging said bundle for one or more Security Receipts evidencing ownership of the [underlying] securities;  
distributing dividends, if any, from said [underlying] securities to said [the] owners of Security Receipts on a *pro rata* basis; and  
exchanging said [underlying] securities, or a portion thereof, upon surrender of one or more Security Receipts evidencing ownership of said [the underlying] securities.

8. (Amended) The method of claim 7, further comprising the step of notifying said owners of said Security Receipts of voting rights related to said [underlying] securities and soliciting votes from said owners.

10. (Amended) The tradeable security vehicle of claim 9 [1] wherein said vehicle exchange means comprises operation of a trustee and includes purchases and/or redemptions of underlying securities on an Exchange.

11. (Amended) The tradeable security vehicle of claim 9 [1] wherein said vehicle arbitrage means comprises operation of a trustee and includes accepting said underlying securities in exchange for a [said] corresponding security vehicle.

12. (Amended) A method of trading interests in capitalized securities, said method comprising [corresponding to] the steps of:

creating a tradeable security vehicle, corresponding in value to a portfolio of select underlying securities having a common characteristic;

establishing a trustee for issuing said tradeable security vehicle, holding title to plural securities in said portfolio of select underlying securities, and redeeming said tradeable security vehicle pursuant to [and] predetermined vehicle processing constraints;

passing through to said holder of said tradeable security vehicle dividend and ownership participation in said portfolio of underlying securities; and

operating an exchange having listed securities that include one or more of said tradeable security vehicles.

13. (Amended) The method of claim 12 [4] wherein said trustee operates to provide said passing through of dividend and ownership participation.

14. (Amended) The method of claim 12 [5] wherein said common characteristic for said underlying securities is a business directed to Internet-based commerce.

15. (Amended) The method of claim 12 [5] wherein said trustee periodically issues and redeems said tradeable security vehicle.

16. (Amended) The method of claim 14 [7] wherein said trustee holds title of said tradeable security vehicle and coordinates transactions thereof through a Depository Trust Company (DTC).